

### REMARKS

Claims 1-5, 8-11, 13-15, 17-19, 21, 22, 24-27 and 36-38 have been rejected by the Examiner under 35 USC 103(a) as being unpatentable over Dailey, U.S. Patent 2,571,343. Claims 1, 8, 17, 20, 21, 37 and 38 have been rejected by the Examiner under 35 USC 103(a) as being unpatentable over Kennedy-Skipton, U.S. Patent 4,114,384. Claims 7 and 29-34 have been rejected by the Examiner under 35 USC 103(a) as being unpatentable over Dailey as applied to claims 1-6, 8-11, 13-19, 21, 22, 24-27 and 36-38 and further in view of Hashimoto et al., U.S. Patent 4,174,230. Claims 23 and 35 have been rejected by the Examiner under 35 USC 103(a) as being unpatentable over Dailey and further in view of Morris et al., U.S. Patent 5,482,551. Claim 12 has been rejected by the Examiner under 35 USC 103(a) as being unpatentable over Dailey in view of Tanei et al., U.S. patent 4,301,356. These rejections are respectfully traversed.

In rejecting the claims of the present application, the Examiner is primarily relying upon the Dailey reference to disclose all the features of the present invention except, explicitly, the use of rheology modifiers. The Examiner argues that it would have been obvious to optimize the composition disclosed in the Dailey reference to produce a composition having properties of the present invention. However, in thoroughly reading the Dailey reference, it is apparent that the present invention is concerned with a completely different problem than that of the Dailey reference. Thus, the Dailey reference is concerned with making a castable gypsum composition which will provide a dense, cementous product. It is clear, for example, from Col. 1, lines 9 and 10 and lines 41-44 of the reference patent that the resin employed in the composition is cured or set in the final product. This produces, as the reference states in Col. 1, lines 19-22, castings of an especially high strength. On the other hand, the present invention is concerned with an un-set gypsum paste which is self supporting and therefore can be extruded. This is substantially a different requirement when compared to the set strength requirement of the product of the Dailey reference. The present invention does not use a curable resin to achieve strength, but rather uses a rheology modifier to alter the rheology of the paste to achieve the self-supporting characteristics. It is also the case that the rheology modification allows the manufacture of a

product which is substantially free of macro defects and is consequently strong and hard, but this is not the result of including in the composition a strengthening agent, but rather as a result of modifying the rheology of the gypsum paste.

As the Examiner will note, claim 1 has been amended to more specifically define the gypsum plaster product of the present invention, that is, a paste which has a yield strength which makes it self-supporting and extrudable prior to being hardened into the plaster product. Thus it is believed that claim 1, as amended, is completely distinguishable from the Dailey patent which is directed to a gypsum mixture which is pourable or of fluid consistency. Thus, there is nothing in the Dailey reference which would suggest that a paste having a self-supporting property such as that of the present invention can be achieved by using rheology modifiers of the type recited in the claims of the present application. Furthermore, there is no suggestion in the reference that the use of such rheology modifiers would enable a strong hard product to be produced. In the case of the Dailey reference, a curable triazine-aldehyde resin is added to the composition to decrease the amount of water required to be mixed with the alpha-gypsum to produce a mix of pourable or fluid consistency. Thus, the invention of the Dailey reference contemplates a mixture of a water soluble, curable triazine-aldehyde resin with alpha gypsum, which is capable of being cured to a hard, set water-insoluble condition. Although the Examiner argues that the Dailey reference discloses the possible use of a clay, the prior art reference merely mentions clay as one of the many possible fillers which may be added to its gypsum composition. Basically, the problems solved by the present invention leads to the specific differences between the present invention and the Dailey reference as pointed out hereinabove, and thus, to reject the claims, the Examiner must reconstruct the teachings of the Dailey reference in view of the Applicants' own disclosure.

The Examiner also relies upon the Kennedy-Skipton reference, U.S. Patent 4,114,384, to disclose a pumpable gypsum slurry which is in complete contrast to the self-supporting paste of the present invention. Also, the amount of water in the slurries of the references considerably in excess of the near stoichiometric amounts of the present invention because of the need to pump the slurry. Thus, one looking to make a self-supporting unset gypsum paste, exhibiting a high

yield stress, as defined by claim 1 of the present application, would not look to the teachings of the Kennedy-Skipton reference which is seeking to make a gypsum slurry with precisely the opposite properties.

Since none of the references relied upon by the Examiner, either alone or in combination is concerned with a product which is substantially free of macro defects, said product being made from a paste wherein the paste has a yield strength which makes it self-supporting and extrudable prior to be hardened into the plaster product, it is accordingly believed that the Applicants have defined an inventive contribution which is not recognized by any of the prior art relied upon by the Examiner.

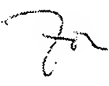
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Joseph A. Kolasch Reg. No. 22,463 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.147; particularly, extension of time fees.

Dated: July 28, 2008

Respectfully submitted,

By 

 Joseph A. Kolasch

Registration No.: 22,463

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant

# 28350